

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JIANGUO HAN, et al,

Defendants.

Case No. 2:15-cr-00069-JCM-NJK

ORDER

Pending before the Court is Defendant Jianguo Han's motion to substitute attorney. Docket No. 36. The motion seeks the Court's permission to substitute Robert W. Curtis, Esq. as Defendant's attorney in place and stead of his current attorney. *Id.* Mr. Curtis is already counsel of record for co-Defendant Bing Han, *see* Docket No. 34, and therefore the pending motion raises questions regarding joint representation.

Fed.R.Crim.P. 44(c)(1) states that joint representation occurs when "two or more defendants have been charged jointly under Rule 8(b) or have been joined for trial under Rule 13" and "the defendants are represented by the same counsel, or counsel who are associated in law practice." Further, "[t]he court must promptly inquire about the propriety of joint representation and must personally advise each defendant of the right to the effective assistance of counsel, including separate representation. Unless there is good cause to believe that no conflict of interest is likely to arise, the court must take appropriate measures to protect each defendant's right to counsel." Fed.R.Crim.P. 44(c)(2).

....

1 The Sixth Amendment provides that “[i]n all prosecutions, the accused shall enjoy the right . . .
2 to have the Assistance of Counsel for his defense.” *U.S. Const.*, amend. VI. While a presumption in
3 favor of a defendant’s choice of retained counsel exists, it may be overcome by a demonstration of an
4 actual conflict or the serious potential for conflict. *See Wheat v. United States*, 486 U.S. 153, 164 (1988);
5 see also *United States v. Rivera-Corona*, 618 F.3d 976, 979 (9th Cir. 2010). A court “confronted with and
6 alerted to possible conflicts of interest must take adequate steps to ascertain whether the conflicts warrant
7 separate counsel.” *Wheat*, 486 U.S. at 164 (internal citation omitted).

8 In accordance with Fed.R.Crim.P. 44(c)(2), the Court ORDERS Mr. Curtis to file a brief fully
9 addressing any and all issues surrounding joint representation of Defendants Bing Han and Jianguo Han,
10 no later than May 22, 2015. A response shall be filed no later than May 29, 2015, and any reply shall be
11 filed no later than June 3, 2015. A hearing is set for June 9, 2015, at 2:00 p.m. in LV courtroom 3D. Mr.
12 Curtis and Defendants Bing Han and Jianguo Han are required to be present at the hearing.

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14 IT IS SO ORDERED.

15 DATED: May 15, 2015.

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18 NANCY J. KOPPE
19 United States Magistrate Judge
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